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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 Jessica Brown,

5 Plaintiff

6 v.

7 Mike VanLuven, et al.,

8 Defendants

Case No.: 2:24-cv-00406-CDS-NJK

Order Granting Plaintiff's Motion to
Dismiss, Denying as Moot Application to
Proceed in Forma Pauperis, and Declining
to Adopt Magistrate Judge's Report and
Recommendation as Moot

[ECF Nos. 7, 8, 9]

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10 Plaintiff Jessica Brown seeks to voluntarily dismiss her claims against defendants Mike
11 VanLuven and the Public Defender's Office.¹ In May 2024, Magistrate Judge Nancy Koppe
12 ordered Brown to complete an application to proceed *in forma pauperis* or pay the \$405 filing fee
13 to initiate a civil action. ECF No. 6. Brown was cautioned that failure to comply before the June
14 17, 2024 deadline would result in a recommendation that the case be dismissed. *Id.* After finding
15 that Brown had not complied with her order, Judge Koppe issued a recommendation to dismiss
16 without prejudice. Report and Recommendation (R&R), ECF No. 7. Objections to the R&R
17 were due by July 9, 2024. *Id.*; *see also* 28 U.S.C. § 636(b)(1). Instead of objections, Brown filed the
18 instant motion to dismiss. ECF No. 9.²

19 I. Discussion

20 Under Rule 41(a)(1), a plaintiff may dismiss an action without a court order before a
21 party serves an answer or a motion for summary judgment. Fed. R. Civ. P. 41(a)(1). Case law
22 concerning voluntary dismissals under 41(a)(1)(A) is clear that the entry of such a dismissal is

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24 ¹ Although the June 28, 2024 minute order advises Brown that letters to a judge will be disregarded (ECF
25 No. 9), Brown's request to dismiss is on pleading paper. Brown is appearing pro se; consequently, the
26 court liberally construes her document as a motion and considers it herein. *Estelle v. Gamble*, 429 U.S. 97,
106 (1976) (The Supreme Court has instructed the federal courts to liberally construe the 'inartful
pleading' of pro se litigants.).

² The court notes that Brown's motion to voluntarily dismiss this case is dated June 11, 2024, though it
was not filed until June 28, 2024. ECF No. 9 at 2.

1 effective automatically and does not require judicial approval. *Commercial Space Mgmt. Co. v. Boeing*
2 *Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999). “The plaintiff may dismiss some or all of the defendants,
3 or some or all of his claims, through a Rule 41(a)(1) notice,” and the dismissal “automatically
4 terminates the action as to the defendants who are the subjects of the notice.” *Wilson v. City of San*
5 *Jose*, 111 F.3d 688, 692 (9th Cir. 1997).

6 In this case, neither VanLuven nor the Public Defender’s Office filed an answer, motion
7 for summary judgment, or have otherwise appeared. Brown moved for dismissal of all claims
8 after Judge Koppe issued the R&R recommending that the case be dismissed without prejudice.
9 ECF No. 7. I have not yet ruled on the R&R. Thus, Brown may technically obtain dismissal of
10 those claims without a court order under Rule 41(a)(1).

11 **II. Conclusion**

12 Once a party files a voluntary dismissal [ECF No. 9], no order of the court is necessary to
13 effectuate dismissal. Therefore, it is ORDERED that Brown’s application to proceed *in forma*
14 *pauperis* [ECF No. 8] is DENIED as moot, and the magistrate judge’s report and
15 recommendation [ECF No. 7] is DECLINED as moot.

16 The Clerk of Court is kindly instructed to close this case.

17 Dated: June 28, 2024

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20 Cristina D. Silva
21 United States District Judge
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